

FILED 08 SEP 11 14:45 USDC ORP

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

EUREKA SPECIALTIES, INC., a
California corporation,

CV No. 08-1023 PK

Plaintiff,
v.

ORDER CONTINUING TEMPORARY
RESTRANING ORDER

TONY MALATESTA FARMS, LLC, an
Oregon limited liability company, **TONY**
MALATESTA, an individual, and **DIANE**
MALATESTA individually,

Defendants.

This matter came before this Court and the undersigned on September 10, 2008.

Teresa H. Pearson of Miller Nash LLP appeared for plaintiff. Craig Russillo of Schwabe Williamson Wyatt PC appeared for defendant Tony Malatesta Farms, LLC (the "Company"). Mr. Russillo reported that defendants Tony Malatesta and Diana Malatesta, have filed chapter 13 bankruptcy.

Based on the arguments of counsel at the hearing, including the proffer of testimony that the Company violated the temporary restraining order by harvesting, packing, and selling produce, which was uncontroverted by the Company, and the record of this case, and the Court finding that plaintiff has shown good cause therefor,

IT IS HEREBY ORDERED:

1. The Temporary Restraining Order that this Court entered on August 29, 2008, at 1:58 p.m., shall remain in full force and effect, and shall be extended for an additional 10 days, with that 10 day time period to commence beginning September 16, 2008.

2. The Temporary Restraining Order shall be modified in the following respects:

(a) The Temporary Restraining Order shall apply only to the Company, and not to the individual defendants, for so long as the individual defendants are protected by the automatic stay of 11 U.S.C. §362.

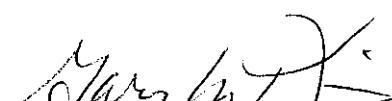
(b) The Company shall provide a list of all of its customers, with names, addresses, telephone numbers, and email addresses, to plaintiff within 24 hours of the time of entry of this order.

(c) The Company shall provide all other accountings and documents required by the Temporary Restraining Order to plaintiff within 48 hours of the time of entry of this order.

3. This Order will be binding upon the Company, its officers, agents, servants, employees, banks, or attorneys and all other persons or entities who receive actual notice of this Order by personal service or otherwise.

4. Plaintiff, through its Counsel, shall serve a true and correct copy of this Order on counsel for the Company.

DATED this 11 day of September, 2008.



United States District Court Judge


Submitted by:

/s/ Teresa H. Pearson

MILLER NASH LLP
Teresa H. Pearson, OSB 953750
E-mail: teresa.pearson@millernash.com
3400 U.S. Bancorp Tower
111 S.W. Fifth Avenue
Portland, Oregon 97204-3699
Telephone: (503) 224-5858
Fax: (503) 224-0155

Attorneys for Plaintiff